

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN C. SCHULTES and
KAREN RAPP SCHULTES,

Plaintiffs,

v.

BANK OF AMERICA N.A.,

Defendant.

Case No. 17-12410
Hon. Terrence G. Berg

**ORDER GRANTING DEFENDANT'S MOTION TO
ENFORCE SETTLEMENT AND DISMISS CASE WITH
PREJUDICE**

This is a mortgage foreclosure case that was dismissed without prejudice on February 12, 2018 pursuant to a stipulated order. On September 28, 2018, Defendant filed a Motion to Enforce Settlement Agreement. ECF No. 9. In its Motion, Defendant sought the enforce the “General Terms of Understanding,” pursuant to which the parties had reached a settlement agreement. One of these terms is that Plaintiffs would agree dismiss this case with prejudice if Plaintiffs failed to tender the loan payoff amount by June 30, 2018. Ex. A to Defendant’s Motion to Enforce Settlement Agreement, ECF No. 9-2 PageID.80.

Plaintiffs did not respond to Defendant’s Motion. However, on December 12, 2018, Defendant filed a supplemental brief with the

Court indicating that Plaintiffs had tendered the payoff amount on or about November 21, 2018. Defendant's Supplemental Brief, ECF No.11, PageID.124. Consequently, the only remaining unfulfilled term of the General Terms of Understanding is dismissal with—rather than without—prejudice. *Id.* However, according to Defendant, Plaintiffs refuse to dismiss the case with prejudice. *Id.*

On January 24, 2019, the Court issued its first Order to Show Cause, directing Plaintiffs to show cause why the case should not be dismissed with prejudice. ECF No. 13. The first Order to Show Cause ordered a response be filed by February 1, 2019. *Id.* Plaintiffs failed to respond. The Court issued a second Order to Show Cause on February 4, 2019, with a response due on February 18, 2019.¹ Plaintiffs again failed to respond.

For the foregoing reasons, Defendant's Motion to Enforce Settlement Agreement, subject to the narrowed scope of relief requested in its Supplemental Brief, is **GRANTED** and this case will there-

¹ The second Order to Show Cause sought to ensure that Plaintiffs, as pro se litigants, had a fair opportunity for notice and to be heard on the pending motion.

fore be **DISMISSED WITH PREJUDICE**. The Clerk of the Court is ordered to dismiss this action with prejudice.

SO ORDERED.

Dated: February 21, 2019 s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed, and the parties and/or counsel of record were served on February 21, 2019.

s/A. Chubb
Case Manager